

Notice of Allowability

Application No.

09/939,883

Examiner

Tamthom N. Truong

Applicant(s)

BREU ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Terminal Disclaimer and Amdt of 9-30-04.
2. ☒ The allowed claim(s) is/are 1-6,8,9,11-15,17-38,48-78,82-86 and 92-96.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JAMES O. WILSON

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Allowable Subject Matter

Applicant's amendment of 9-30-04 has been fully considered. The terminal disclaimer of 8-16-04 has obviated the previous ODP rejection.

Claims 7, 10, 16, 39-47, 79-81, 87-91 and 97-145 have been cancelled.

With no other outstanding rejection, pending claims 1-6, 8, 9, 11-15, 17-38, 48-78, 82-86 and 92-96 are allowed.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The invention is drawn to compounds of quinoline substituted with pyrrolidine, piperidine, azepane, or 3,4-dihydroisoquinoline, and another ring represented by R³. The instant genus of formula I has been issued in US 6,696,467 B2 to which a terminal disclaimer has been filed. An update search yields a reference of **Bi et. al.** (US 6,576,644 B2 or US'644), which broadly teaches compounds of quinoline substituted with -NR₄R₅. However, the reference of Bi et. al. has excluded compounds having R₄ and R₅ forming a heterocycle (see the proviso on column 2, line 23). Furthermore, the effective filing date of US'644 does not antedate the priority date of this application. Therefore, US'644 is not a competent prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

References on PTO-892

The first two pregrant publications either do not have substituents equivalent to R³, and/or have a later effective filing date. Three references listed on PTO-892 have common assignee (US 2004/0029901, US 6,818,767 and US 6,787,558). However, they do not claim the same or analogous quinolinyl compounds. That is, they do not claim quinolinyl compounds having a combination of substituents equivalent to the instant R³, and pyrrolidine, piperidine, 3,4-dihydro-isoquinoline, or azepane. Thus, there is no issue of ODP.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (10:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

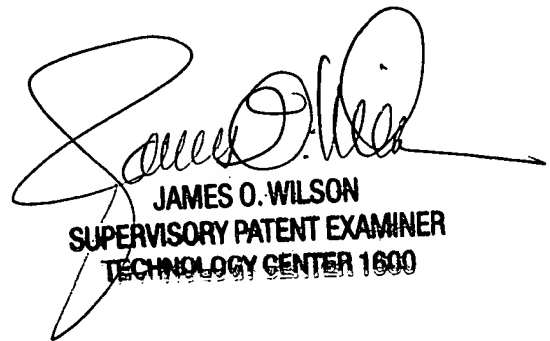


Tamthom N. Truong

Examiner

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12-16-04



JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600